

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4932 of 1984

AND

SPECIAL CIVIL APPLICATION No 3750 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

AMBALAL GOKALDAS PATEL & OTHERS

Versus

STATE OF GUJARAT & OTHERS

Appearance:

MR IS SUPEHIA for the Petitioners

MR GOHIL for the Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/09/96

ORAL JUDGEMENT

1. The facts and grounds in both the petitions are somewhat similar, and as such, the same are being disposed of by this common judgment.

2. The petitioners of these petitions are individual as well as the Gujarat Rajya Police Constable Karmchari Mandal of different S.R.P. groups at Baroda and

Ahmedabad city. The prayer has been made in both these Special Civil Applications by the petitioners for quashing of the notification/resolution dated 1-2-1984 of the Government of Gujarat (Home Department).

3. The dispute relates to the grant of refreshment allowance to the Police Officers and men below the rank of Police Inspectors in the time of emergencies when it is necessary to deploy the men to perform duties for more than 12 hours at a time subject to the giving of the refreshment allowance. This refreshment allowance was not given to the constables working in S.R.P. Group IX which has given a cause to that class of persons to approach this court and accordingly they filed Special Civil Application No.2064 of 1980 before this Court. This Special Civil Application has been decided by this court under the order dated 29th March 1982 and the directions were issued to the respondent therein to make the payment of refreshment allowance at the permissible rate as may be in force from time to time to the petitioners as required under the order of the Additional Inspector General of Police, Armed unit and Training, dated October 17, 1981 for their deployment to perform duties for more than 12 hours at a time in the course of the period from 1974 to 1980 as may be recorded in the register maintained by the Commandant of Group IX in that behalf on the occasions other than those specified in Para 12 of the affidavit in reply of Shri V.J. Jhala dated October 6, 1980 in that petition. After the aforesaid decision, the resolution dated 1-2-1984 has been made for Grant of Refreshment Allowance to the rank of Police Officers and men of and below the rank of P.I..

4. The grievance has been made by the learned counsel for the petitioners that in sum and substance this resolution amounts to over reaching the decision which has been given by this court earlier in Special Civil Application No.2064 of 1980. Secondly, the grievance has been made by the learned counsel for the petitioners that if the resolution is minutely looked into then no person will get the refreshment allowance. The conditions for the entitlement of the refreshment allowance are such conditions in which the Police Officers of the said rank though have to work more than 12 hours, but they will not get the refreshment allowance. Lastly, the learned counsel for the petitioners contended that the resolution which has been made is contrary to Para no.280 of the Police Manual.

5. On the other hand, the learned counsel for the respondent contended that the refreshment allowance is

not as a matter of course or right. The Government has taken all the care to compensate for the overtime working of the employees of the Police Department of the special category. However, the learned counsel for the respondent contends that the provisions of Para no.280 of the Police Manual has also been taken care of before making of the aforesaid resolution.

6. I do not consider it proper and appropriate to go on the questions which have been raised by the counsel for the petitioners in these petitions. The petitions have been filed by the associations of the employees and the proper course would have been for them to first approach to the Government with all their grievances against the resolution dated 1-2-1984. The approach of the associations in such a matter straightway to this Court is not appreciable. These writ petitions are disposed of with the directions that still if the grievances of the petitioners against the resolution dated 1-2-1984 survives then they may have a right to make the representation to the Secretary of the Home Department. The Secretary of the Home Department will consider the representation, if any, made by the petitioners and will decide their grievances after hearing the representative of the union if demanded. Whatever decision is taken by the Secretary on the representation of the petitioners shall be communicated by registered post to the office bearers either the President or the General Secretary of the concerned association. Rule stands discharged subject to the aforesaid directions. No order as to costs.

zgs/-